REMARKS

Summary of the Amendment

Upon entry of the above amendment, claim 31 will have been added and claims 11, 21 and 30 will have been amended. Accordingly, claims 11-31 will be pending with claims 11, 21, 30 and 31 being in independent form.

Summary of the Official Action

In the instant Office Action, the Examiner rejected claims 11-30 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Support for Claim Amendments

Applicant has amended claims 11, 21 and 30 to correct a typographical error in the claims. Support for the change to these claims can be found on page 3, lines 1-4 of the instant specification.

Interview of July 14, 2003

Applicant appreciates the courtesy extended by Examiner Cole in the interview of July

14, 2003. In that interview, Applicant's representative discussed, among other things, that independent claims 11, 21 and 30 recite that the adhesive holds the longitudinal threads in place to facilitate tearing of the tape. On the other hand, SUEMATSU relates to using a heat treatment step to weaken the longitudinal threads.

It was specifically emphasized that this document discloses applying a resin layer to the base fabric which is then heat treated. The resulting laminate structure can be torn by hand. Thereafter, an adhesive layer can be applied to either side. Applicant's representative specifically noted that in col. 4, lines 26-52, it is clearly indicated that the laminate is tearable before any adhesive is applied thereto.

It was specifically argued that there is no apparent disclosure or suggestion with regard to using the adhesive to hold the longitudinal threads in place, much less, doing so to give to the adhesive tape a transverse tearing stress of less than 10 N.

In response, the Examiner agreed to consider such arguments upon the filing of a response. However, the Examiner did agree that the claims would define over the applied art of record if the claims were amended to specifically recite that "only" the adhesive holds the threads in place. Finally, the Examiner agreed that if the claims were alternatively amended to further recite that before the adhesive is applied the threads are not immobilized, then such claims would define over the applied art of record.

Traversal of Rejection Under 35 U.S.C. § 103(a)

Applicant traverses the rejection of claims 11-30 under 35 U.S.C. § 103(a) as being unpatentable over US patent 4,439,482 to SUEMATSU alone.

The Examiner acknowledges that SUEMATSU lacks, among other things, the recited dtex/cm values, strengths and dtex. However, the Examiner asserted that the document discloses that warp and weft can have different strengths and denier in order to produce a tape that can be easily torn. The Examiner also opined that the document "recognizes the denier .. as a result effective variable." Finally, the Examiner concluded that it would have been obvious to modify SUEMATSU to have the recited dtex/cm values, strengths and dtex in order to optimize tearability and strength and because selecting these particular values would involve only routine experimentation. Applicant respectfully traverses these assertions and the rejection.

Notwithstanding the Office Action assertions as to what this document discloses or suggests, Applicant submits that no proper modification of the above-noted document discloses or suggests, inter alia, an adhesive tape wherein a titre of the longitudinal threads per unit width of the adhesive tape is lower than a titre of the transverse threads per unit length of the adhesive tape and at most equal to 2500 dtex/cm, *the longitudinal threads being held in place in the transverse direction by the adhesive*, so as to give to the adhesive tape a transverse tearing stress of less than 10 N, as recited in independent claims 11, 21 and 30.

Applicant does not dispute that SUEMATSU relates to an adhesive tape in which the base fabric is laminated with a polyethylene film. This laminated structure is then heat treated to make it tearable. However, it is clear that only after such lamination and treatment is the structure tearable by hand. Finally, an adhesive is applied only after the tape is rendered tearable. Thus, it is apparent that the threads are immobilized by the film and not by the adhesive. It is also clear that the adhesive is not necessary to render the tape tearable by hand. See col. 4, lines 26-52.

Conspicuously absent from the disclosure of this document is any suggestion with regard to the adhesive participating in any way in the holding or the immobilizing of the longitudinal threads (or any threads for that matter). Indeed, to the extent that the Examiner believes that this occurs, the Examiner is believed to be engaging in speculation.

Applicant emphasizes that claims 11, 21 30 clearly recite that *the longitudinal threads are held in place in the transverse direction by the adhesive*, so as to give to the adhesive tape a transverse tearing stress of less than 10 N. This is clearly not disclosed or suggested in the document. Nor has the Examiner identified any disclosure in this document which would suggest that the adhesive participates in immobilizing any threads, much less, the longitudinal threads.

Nor would it make any sense to automatically assume, as the Examiner has done, that the mere application of an adhesive to the laminate necessarily or inherently causes the

threads to be immobilized thereby. To the contrary, if SUEMATSU were relying on the adhesive to participate in the immobilizing of the longitudinal threads, there would presumably be no need for the film. However, SUEMATSU clearly does require the film to render the laminate tearable. Indeed, SUEMATSU specifically discloses that the laminate structure can be torn by hand prior to the adhesive being applied (See col. 4, lines 42-52).

Because the applied document fails to disclose or suggest at least the above-noted features of the instant invention, Applicant submits that no proper modification of this document can render unpatentable the combination of features recited in at least independent claims 11, 21 and 30.

Applicant reminds the Examiner of the guidelines identified in M.P.E.P section 2141 which state that "[i]n determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

As this section clearly indicates, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837

F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)."

Moreover, it has been legally established that "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) .... Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

Additionally, it has been held that "[a] statement that modifications of the prior art to meet the claimed invention would have been "` well within the ordinary skill of the art at the time the claimed invention was made'" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)."

Thus, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify the applied reference in the manner asserted by the Examiner. Nor does

the Examiner's opinion provide a proper basis for these features or for the motivation to modify this document, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claims 11, 21 and 30 is not rendered obvious by any reasonable inspection and interpretation of the disclosure of the applied reference.

Further, Applicant submits that claims 12-20 and 22-29 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper modification of SUEMATSU discloses or suggests, in combination: that the titre of the transverse threads per unit length is between 3000 and 4500 dtex/cm as recited in claims 12 and 22; that the longitudinal threads are arranged closer to one another and have a lower unit titre than the transverse threads as recited in claims 13 and 23; that a number of the longitudinal threads comprises between 30 and 50 longitudinal threads per cm width as recited in claims 14 and 24; that a number of the transverse threads comprises between 18 and 27 transverse threads per cm length as recited in claims 15 and 25; that the titre of the longitudinal threads is between about 40 and 60 dtex as recited in claims 16 and 26; that the titre of the transverse threads is between 150 and 250 dtex as recited in claim 17 and 27; that the adhesive is sensitive to pressure as recited in claims 18 and 28; that the adhesive tape further comprises an anti-adhesive layer covering a face of the support which is opposite the

face which is covered by the adhesive as recited in claim 19; and that each of the plurality of threads is dyed as recited in claim 29.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the rejection of these claims under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

New Claim is also Allowable

Applicant also submits that newly submitted claim 31 is also patentable over the art of record.

In particular, consistent with the Examiner's comments in the Interview, Applicant submits that no proper modification of SUEMATSU discloses or suggests inter alia, at least one of: the longitudinal threads being held in place in the transverse direction only by the adhesive, so as to give to the adhesive tape a transverse tearing stress of less than 10 N; and before the adhesive is applied to the support the longitudinal threads are not immobilized and wherein after the adhesive is applied to the support the longitudinal threads are held in place in the transverse direction by the adhesive, so as to give to the adhesive tape a transverse tearing stress of less than 10 N, as recited in claim 31.

Accordingly, Applicant respectfully requests consideration of this claim and further requests that the above-noted claim be indicated as allowable.

CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

The Commissioner is hereby authorized to refund excess payments and charge any additional fee necessary to have this paper entered to Deposit Account No. 19-0089.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully submitted,
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July 17, 2003
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